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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/941,386	08/28/2001	James C. Ori	705558US1	5998

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EXAMINER

GUTMAN, HILARY L

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 06/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/941,386	Applicant(s) ORI ET AL.	
	Examiner Hilary Gutman	Art Unit 3612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2004.
 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,4-13 and 15-20 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 2,4-13 and 15-20 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 2, 6-8, 10, 13, and 15-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Czaplicki et al. (6,482,486).

Czaplicki et al. disclose a motor vehicle frame assembly having a first tubular frame member 5, and a structural member 20 disposed in the first tubular frame member, the structural member comprising: a generally tubular body (Figure 2) having an outer perimeter parallel to and abutting an inner perimeter (Figures 4-5) of the first tubular frame member, the tubular body being disposed within the first tubular frame member to increase the moment of inertia of the first tubular frame member; and at least one rib 38 disposed in the tubular body; wherein the frame assembly further includes a second tubular frame member 6 intersecting the first tubular frame member to form a joint and the structural member is located in the first tubular frame member at the joint.

With regard to claims 6 and 7, and the limitations that the structural member is extruded and machined, it should be noted that the patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the

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same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process (MPEP 2113).

With regard to claim 8, the structural member is fixedly attached to the first tubular frame member.

With regard to claim 10, the structural member can be fixedly attached by adhesive (such as an adhesive layer).

With regard to claim 13, the tubular body has a length and the rib extends the length of the tubular body.

With regard to claim 15, the rib is orientated generally vertically.

With regard to claim 16, the at least one rib comprises multiple ribs orientated in an intersecting pattern.

3. Claims 17, 18, 19, and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by DE 19858903.

DE '903 discloses a motor vehicle frame assembly (Figure 2) having first elongate member 20 and a second elongate frame member (such as the B pillar, not numbered, seen in Figure 2) and a reinforcing member 1, the reinforcing member comprising: a tube 2 (Figures 1 and 3) having an outer perimeter closely conforming to an inner perimeter of a tubular portion of the first frame member (Figure 3) and a reinforcement structure 3, 3' spanning an interior void of the tube; and wherein the first and second frame members are connected at a joint and the reinforcing member is disposed in the first frame member at the joint. The reinforcement structure comprises a longitudinal rib. The second frame member is tubular and the joint occurs at a central portion of the first frame member, the reinforcing member extending within the first

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frame member through the joint (Figure 2). The reinforcing member is fully enclosed by the first frame member.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Czaplicki et al. as applied to claim 2 above, and further in view of Aloe et al.

Czaplicki et al. are silent on the specific material used to construct the structural member and lacks the structural member being constructed of aluminum or steel.

Aloe et al. teach (Column 1, lines 21-26) the use of steel as well as aluminum for motor vehicle structures such as frame assemblies since this material has a high rigidity and strength.

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the structural member of Czaplicki et al. to be made of steel or aluminum as taught by Aloe et al. in order to provide additional strength and rigidity to the vehicle frame assembly of Czaplicki et al.

7. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Czaplicki et al. as applied to claim 8 above, and further in view of Benedyk (5,458,393).

Czaplicki et al. lack the structural member being fixedly attached by an interference fit.

Benedyk teaches fixedly attaching structural members or frame members together by an interference fit (Column 3, lines 27-34 and 56-64; Column 8, lines 20-24; and Column 11, lines 12-15).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have fixedly attached the structural and first tubular frame members of Czaplicki et al. by an interference fit as taught by Benedyk in order to better and more securely attach the two components.

8. Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Czaplicki et al. as applied to claim 8 above, and further in view of Janotik (5,209,541).

Czaplicki et al. lack the structural member being fixedly attached by fasteners and external depressions.

Janotik teaches fixedly attaching two frame members 24, 42 by fasteners 82 as well as by external depressions 72 (Figure 2).

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided external depressions as taught by Janotik in the structural member of Czaplicki et al. and to have provided fasteners as taught by Janotik in the first tubular frame member of Czaplicki et al. in order to better and more securely attach the two components.

Response to Arguments

9. Applicant's arguments with respect to claim 2 and its dependents have been considered but are moot in view of the new ground(s) of rejection.

10. With regard to claims 17-20, applicant's arguments filed 5/4/04 have been fully considered but they are not persuasive. Specifically, applicant argues that the outer perimeter of the tube of the reinforcing member of DE '903 does not closely conform to an inner perimeter of a tubular portion of the first frame member. The examiner disagrees and believes that the outer perimeter of the tube of the reinforcing member has the substantially the same shape as that of the inner perimeter of the tubular portion of the first frame member and that the outer perimeter therefore "closely conforms" to the inner perimeter as broadly recited and interpreted.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hilary Gutman whose telephone number is 703-305-0496.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 703-308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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13. **Any response to this final action should be mailed to:**

Box AF

Assistant Commissioner for Patents


Washington, D.C. 20231

or faxed to:

(703) 872-9327, (for formal communications; please mark "EXPEDITED
PROCEDURE")

or:

(703) 746-3515, (for informal or draft communications, please clearly
label "PROPOSED" or "DRAFT").



6/14/04

D. GLENN DAYOAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600